

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 94-0800 CSET
Controlled Substance Excise Tax
For Tax Periods: 1994**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of and dealing in marijuana. The Indiana Department of Revenue issued a record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on September 7, 1994 in a base tax amount of \$3,600,000.00. Taxpayer filed protest to the assessment. A hearing on the protest was scheduled for 10:00 a.m. on December 3, 1998. Taxpayer was notified of the hearing at his last known address. Taxpayer did not appear for the hearing. Further facts will be provided as necessary.

Controlled Substance Excise Tax-Imposition

DISCUSSION

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the delivery and possession of cocaine in the State of Indiana. An investigating agent's statement, police officer's statement and the lab report indicate that Taxpayer was in possession of marijuana. Taxpayer has the burden of proving that the

information in the file and assessment are incorrect. Since Taxpayer did not appear at the hearing or offer any written information in lieu of a hearing, the Department must rely on the contents of the file in making a decision on the matter. Therefore, the tax properly applies to Taxpayer in this situation.

FINDING

Taxpayer's protest is denied.